

GARRY G. MATHIASON, Bar No. 051119  
ALAN S. LEVINS, Bar No. 057612  
ADAM J. PETERS, Bar No. 230812  
KIMBERLY L. OWENS, Bar No. 233185  
LITTLER MENDELSON  
A Professional Corporation  
650 California Street, 20th Floor  
San Francisco, CA 94108.2693  
Telephone: 415.433.1940  
Facsimile: 415.399.8490

Attorneys for Plaintiff  
GRANITE ROCK COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GRANITE ROCK COMPANY,

Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, FREIGHT,  
CONSTRUCTION, GENERAL  
DRIVERS, WAREHOUSEMEN AND  
HELPERS, LOCAL 287 (AFL-CIO), and  
DOES 1 through 20, inclusive,

Defendants.

Case No. C04-2767 JW

**PLAINTIFF GRANITE ROCK  
COMPANY'S MOTION FOR AN ORDER  
SHORTENING TIME TO HEAR  
PLAINTIFF'S MOTION FOR LEAVE TO  
AMEND COMPLAINT; ~~[PROPOSED]~~ REVISED  
ORDER GRANTING MOTION  
SHORTENING TIME; AND  
DECLARATION OF ALAN S. LEVINS IN  
SUPPORT THEREOF**

Judge: The Honorable James Ware  
Date: TBA  
Trial Date: April 11, 2006

Pursuant to Local Civil Rule 6-3, Plaintiff Granite Rock Company ("Plaintiff") respectfully requests an Order shortening time in connection with Plaintiff's Motion for Leave to Amend the Complaint. Plaintiff requests to shorten the following hearing and response dates as follows:

- (1) Plaintiff's Motion for Leave to Amend the Complaint to be heard on **Monday, February 13, 2006 at 9:00 a.m.**;
- (2) Defendant's Opposition in response to Plaintiff's Motion for Leave to Amend the Complaint to be filed no later than **Monday, February 6, 2006**; and
- (3) Plaintiff's Reply in response to Defendant's Opposition in response to Plaintiff's Motion for Leave to Amend the Complaint to be filed no later than **Thursday, February 9, 2006**.

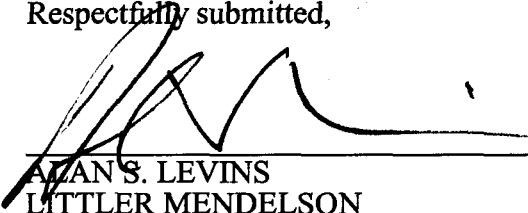
As summarized in the Declaration of Alan S. Levins below, counsel for Defendant Local 287 ("Defendant") has refused to stipulate to shortening time, but has indicated that Defendant will not oppose this Motion for an Order Shortening Time. This motion is made because this case is set for trial on April 11, 2006. According to Local Civil Rule 7-2(a), Plaintiff's Motion for Leave to Amend the Complaint (filed concurrently with this motion on January 30, 2006) must be heard not less than 35 days from its filing date. Accordingly, the earliest date for hearing is March 6, 2006. Considering the approaching trial, justice requires that this matter be resolved with adequate time for the parties to prepare for trial. As required by Local Civil Rule 6-3(a)(5), previous time modifications in this case are outlined in the Declaration of Alan S. Levins below.

The reasons for Plaintiff's Motion for Leave to Amend the Complaint are fully explained in the Motion and its Memorandum of Points and Authorities. In brief, a stay was lifted on discovery in this case as of September 21, 2005. In the course of the depositions and discovery following that date, Plaintiff has discovered new evidence that indicates that the International Brotherhood of Teamsters (the "IBT") was in an agency relationship with Defendant at the time of the unlawful strike activity involved in this case, and that the IBT ratified and encouraged the conduct of Defendant in this case. For these reasons, Plaintiff should be allowed to amend its Complaint in accordance with Rule 15(a) of the Federal Rules of Civil Procedure, joining the IBT in this case. Plaintiff has not delayed in seeking its Motion for Leave to Amend the Complaint as this information is, in fact, newly discovered.

This Motion is based on this Motion, the Declaration of Alan S. Levins, oral argument of counsel at the hearing, if one is held, and all relevant pleadings on file with the Court.

Dated: January 31, 2005

Respectfully submitted,

  
 ALAN S. LEVINS  
 LITTLER MENDELSON  
 A Professional Corporation  
 Attorneys for Plaintiff  
 GRANITE ROCK COMPANY

**[PROPOSED] ORDER GRANTING MOTION TO SHORTEN TIME**

Good cause appearing, the Court hereby approves Plaintiff's Motion for an Order Shortening Time to Hear Plaintiff's Motion for Leave to Amend the Complaint. The Court hereby sets the following hearing and response dates as follows:

- (1) Plaintiff's Motion for Leave to Amend the Complaint shall be heard on **Monday, February 13, 2006 at 9:00 a.m.;**
- (2) Defendant's Opposition in response to Plaintiff's Motion for Leave to Amend the Complaint shall be filed no later than ~~Monday, February 6, 2006;~~ and
- (3) Plaintiff's Reply in response to Defendant's Opposition in response to Plaintiff's Motion for Leave to Amend the Complaint shall be filed no later than ~~Thursday, February 9, 2006.~~

**IT IS SO ORDERED.** Opposition is due Wed., Feb. 8, 2006; reply is due Fri., Feb. 10, 2006 by 12:00 noon.

Dated: Feb. 2, 2006

  
THE HONORABLE JAMES WARE  
UNITED STATES DISTRICT JUDGE

**DECLARATION OF ALAN S. LEVINS**

I, Alan S. Levins, hereby declare and state as follows:

1. I am licensed to practice before the United States District Court for the Northern District of California, and I am a shareholder in the law firm of Littler Mendelson, A Professional Corporation, attorneys of record for Plaintiff in the above-captioned matter.

2. A new trial in this case was ordered by the Court on January 24, 2005. On March 1, 2005, the Court stayed discovery in this case in advance of a hearing on Defendant's motion to stay proceedings pending arbitration, which was set for hearing on April 25, 2005. On April 14, 2005, the Court continued the hearing date to July 11, 2005. Taking the matter under submission without oral argument, the Court denied Defendant's motion on July 19, 2005, and as of the next day, scheduled a trial setting conference for September 19, 2005. Following the trial setting conference, the Court lifted its stay on discovery as of September 21, 2005, setting January 24, 2006 as the trial date. Pursuant to the parties' stipulated request filed on November 8, 2005 to continue the dates previously set by the Court, the Court set the new trial date for April 11, 2006.

3. In the days just prior to this Motion, I have conferred via telephone with Duane Beeson, counsel for Defendant, on Plaintiff's Motion for Leave to Amend the Complaint as well as this Motion for an Order Shortening time. I am informed and believe that Mr. Beeson has not agreed to stipulate to this Motion for an Order Shortening Time, although he did represent to an associate of my firm, who forwarded the voicemail message to me that he would not oppose the schedule proposed by this Motion for an Order Shortening Time.

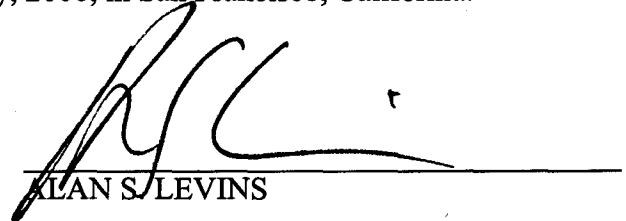
4. As fully explained in Plaintiff's Motion for Leave to Amend the Complaint, and my Declaration in support thereof, Plaintiff is seeking its Motion for Leave to Amend the Complaint due to newly discovered evidence.

5. Due to the trial date of April 11, 2006, I believe that Plaintiff's Motion for Leave to Amend the Complaint should be heard on Monday, February 13, 2006, or shortly thereafter. According to Local Civil Rule 7-2(a), Plaintiff's Motion for Leave to Amend the Complaint (filed on January 30, 2006) must be heard not less than 35 days from its filing date, which thus requires a hearing no earlier than March 6, 2006. This case is set for trial on April 11, 2006. A trial date

1 approximately one month after a hearing on amending Plaintiff's Complaint would not afford  
2 Plaintiff (or the Defendant(s)) adequate time to prepare. For this reason, Plaintiff seeks an expedited  
3 hearing date for its Motion for Leave to Amend the Complaint.

4  
5 I declare under penalty of perjury and the laws of the United States of America that  
6 the foregoing is true and correct.

7 Executed this 31st day of January, 2006, in San Francisco, California.

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ALAN S. LEVINS

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